The following petitions were then reported to the Council :—

Number.	From whom received.	Subject.
1	Muriathumalamel Numboori and 45 others ...	Hindu Religious Endowments Bill.
2	Krishnan Sankaran of Kottayam	Do.
3	N. K. Kunhikrishna Panikkar of Kottayam and 89 others ...	Do.
4	Pottur Krishna Bhattathiri and Kannambillil Nilakantan Numboori ...	Do.
5	Raman Narayanan of Kottayam and 49 others ...	Do.
6	N. K. Kunhikrishna Panikkar of Kottayam and 92 others ...	Do.
7	Raman Krishnan of Kottayam and 18 others ...	Do.
8	Ambakattu Panikkar Raman Narayanan and 24 others...	Do.
9	Kanakku Narayanan Sankaran and 55 others ...	Do.
10	Padmanabhan Kunju and 102 others of Parur ...	Do.
11	Mr. K. Krishnan Pandalay, B. A., B. L., High Court Vakil, Quilon, forwarding the opinion of The Honorable Mr. J. E. P. Wallis, Advocate-General, Madras	Do.
12	Letter from Mr. T. F. Bourdillon, Conservator of Forests ...	Weights and Measures Bill.

HINDU RELIGIOUS ENDOWMENTS BILL.

Section 3 (b).

Mr. Nagam Aiya.—I beg to propose that in line 1 of this clause, the word "endowment" be substituted for "establishment." This is a verbal amendment and is intended to secure uniformity of expression.

Seconded by Mr. Rajaram Row.

Carried.

Mr. Nagam Aiya.—I beg to propose that at the end of this clause, the following proviso be added :—

"Provided that where the management of a religious endowment has passed into the hands of several branches by division among the members of the original family, the endowment may nevertheless be considered as being in the management of a single family for the purpose of this Regulation."

The object of this amendment is to remove a doubt which evidently exists in the minds of some of the memorialists, as to whether the expression "single family" used in the section will include the several branches into which the family may be divided by partition. It may be conceded that for the purpose of this Regulation, an endowment under the management of one or more branches of the same family should be considered as being in the management of the original family.

Seconded by Mr. Ferguson.

Carried.

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Section 4 I.

Mr. Nagam Aiya.—I beg to propose that the word "the" in line 2 be omitted. This is a mere verbal amendment.

Seconded by Mr. Kuruvila.

Carried.

Section 4 I (a).

Mr. Kuruvila.—I beg to propose that the following words be added at the end of this clause:—

"or of a majority of such trustees or donors."

This clause deals with the first class of cases in which the Government may assume the management of religious endowments, *viz.*, on the application of the trustees or donors. It is very desirable that the principle guiding the work of all committees, namely that the will of the majority alone shall predominate, should apply to the work of these trustees also. To insist that all the trustees must unanimously agree to a proposal before it can be carried out, is as objectionable as to allow a proportion less than a majority to have an efficient voice. The rules to be passed under sections 9 and 16 may, perhaps, enforce this principle but, I think, it is advisable to make an explicit provision as I have proposed in the body of the Regulation, at least for clause (*a*), as the action under that clause presumes that all the trustees take an interest in the management of the trust.

Seconded by Mr. Dharmaraja Iyer.

President.—I think that the principle of the amendment is unobjectionable; but considering that the clause in question contemplates a surrender of their right by the trustees, even though temporarily, it seems to me that some safe-guard should be provided against such a serious step being taken on the strength of a bare majority. I would suggest for the consideration of the Council that a majority of two-thirds the number of trustees be declared necessary for the purpose of this clause. It will at once secure the object which the Mover of the amendment has in view and impose a check upon hasty or ill-considered action on the part of the trustees.

Mr. Kuruvila.—I accept with great pleasure and thankfulness the kind suggestion of the President. It is a decided improvement upon my amendment and fully satisfies my object. I beg leave, therefore, to modify the wording of my amendment as follows:

"or of a majority consisting of not less than two-thirds the number of such trustees or donors."

Seconded by Mr. Nagam Aiya.

Carried.

Section 5.

Mr. Nagam Aiya.—I beg to propose that the words "adult male" be inserted between "competent" and "member" in line 11; that the words "at present" in line 16 be omitted; and that the following proviso be added at the end of the section:—

"Provided that where no competent adult male member of the family is available, the Dewan may, with Our sanction, appoint a proper person to be trustee."

The first portion of the amendment seeks to make the meaning explicit. The nomination of trustees must of necessity be confined to the adult male members of a family.

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The second amendment is purely verbal.

The proviso proposed to be inserted is necessary for the practical working of the section. In cases where the Government may be called upon to take action under this section, it may sometimes happen that after the removal of a trustee there is no adult male member in the family, and the power contemplated would thus become necessary. As the appointment of strangers from outside the family will only be necessary when there are actually no adult male members in the family, there can obviously be no interference with vested rights.

Seconded by Mr. Dharmaraja Iyer.

Carried.

Section 6.

Mr. Nagam Aiya.—I beg to propose that the word "any", in line 9, be omitted, and that "endowment" be substituted for "trust" in line 15 and for "institution" in lines 18 and 26. These are all verbal amendments and require no explanation.

Seconded by Mr. Rajaram Row.

Carried.

Mr. Nagam Aiya.—In the same section, I beg to propose that, in line 20, "eight weeks" be substituted for "four weeks". It is desirable that the additional time should be granted in consideration of parties effected living at considerable distances. Eight weeks will, in the circumstances of this country, be considered ample.

Seconded by Mr. Kuruvila.

Carried.

Mr. Nagam Aiya.—I have one more amendment to propose in this section, that is, to substitute "passed" for "carried out" in line 30. This also is a necessary amendment. What is intended is that the sanction contemplated should be obtained before passing the order itself, involving assumption.

Seconded by Mr. Rajaram Row.

Carried.

Section 11.

Mr. Nagam Aiya.—I beg to propose that the words "is desirable in" be substituted for "will protect" in line 9. This again is a verbal amendment, requiring no explanation.

Seconded by Mr. Kuruvila.

Carried.

Section 13.

Mr. Nagam Aiya.—I beg to propose that the words "or their authorised agents" be inserted after "enquiry" in line 5. This amendment merely seeks to extend to enquiries under this section, the same procedure that is usually followed in all regular enquiries.

Seconded by Mr. Kuruvila.

Carried.

Section 14.

Mr. Kuruvila.—I beg to propose that the following proviso be added at the end of the section :—

"Provided that such a procedure will not be adopted in any case in which the amount due to the endowment is not explicitly fixed by a duly registered written

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agreement between the defaulter and the endowment or by the decision of a competent civil court."

Section 14 proposes to apply the Revenue Recovery Regulation to the collection of rents and other dues of the religious endowments falling within the purview of this Regulation. The magnitude and importance of the properties connected with these endowments have been eloquently acknowledged by the learned Mover of the Bill in his speech asking for leave to introduce the Bill. He has estimated the value at two crores of rupees. The increase of work in the Revenue department if all the rents and dues of these endowments happen to be collected through that agency will no doubt be formidable, and the number of coercive processes demanded will undoubtedly affect a very extensive section of the population. It is no satisfaction to be told that the actual number of endowments to which the Revenue Recovery Regulation will be applied will in practice be limited, for the ease of collection may induce a vast number to seek the suggested help. It is well-known that even the rent-roll of several Devaswoms is not kept up to date, different parties in the management having different rolls. Further, several of the registered documents written before the Jenmi and Kudiyan Regulation, V of 1071, came into force leave the question of several dues unsettled. At present, it is competent for the trustees or the majority of them to remit any portion or even the whole of certain doubtful dues, if they think that such a step is desirable in the interests of the trust or in consideration of the condition of the property or the defaulter. It may be that under section 52 of the Revenue Recovery Regulation, even the civil courts may be precluded from considering the fairness of the dues just as the rate or amount of assessment is beyond their jurisdiction. The only resource for help in this direction will be the Huzur, but attachment of property may take place during the pendency of the appeal. Further, direct management of property is also possible under section 25 during the period of attachment. I do not oppose the section in the Bill as a whole, because it is the most attractive provision in the Bill to induce honest trustees to accept the Regulation with satisfaction. But it is very desirable to confine oppressive processes to cases where they are absolutely necessary and where even now the civil courts can be expected to grant similar relief. I trust that our colleague, who had something to do with local legislation long before the institution of this Council and whose revenue experience extends to every branch of the public income, will support me when I say that this Government has, in extending its help in similar cases, acted on the principle that coercive processes should be allowed only when the amount due is definitely and clearly settled. I have, therefore, proposed the amendment as above set forth, and I most earnestly beg that the Council may approve of it.

Seconded by Mr. Dharmaraja Iyer.

President.—There is one point to be considered in regard to this amendment. The procedure mentioned in this section will in practice have to be applied to two distinct classes of endowments *viz.*, those assumed by the Government under the Regulation and those under the management of the trustees themselves. I do not know if the Mover of the amendment wishes that the restriction contemplated by the proposed proviso should apply to the collection of rents and other dues in the case of institutions assumed by the Sirkar. There is not the same necessity for this restriction in the case of institutions assumed as for those in the management of trustees, for assumption always pre-supposes a formal enquiry, in which the question of rent-roll will, of course, be gone into. On the other hand, I am inclined to think that the proviso will cause practical difficulty in the management of endowments which the Sirkar may be called upon to assume. Once an institution is assumed, it is the clear duty of Government, as declared in section 7, to manage it like other Sirkar institutions of the kind and to admit of this being done in the best interests of the institution, it is necessary that the Sirkar should have every facility for collecting the rents and dues under the Revenue Recovery Regulation. I would, therefore, suggest that a distinction be drawn between the two classes of institutions above mentioned.

After some further discussion, the President suggested the following modification in the amendment:—

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"Provided

(*a*) that, in the case of endowments assumed by the Sirkar under this Regulation, the rent-roll is settled and the liability of each tenant is definitely recorded, after due enquiry, by an officer appointed by the Sirkar, and

(*b*) that, in the case of other endowments, there are written agreements between the institutions and the tenants fixing the amount of rent and other dues or the claim to the rent or other dues is admitted by the tenant or established by the decision of a competent civil court."

Mr. Kuruvila.—I beg to withdraw my original amendment and propose instead, the one so kindly suggested by the President. My only object is that there should be no room for oppression to the poor ryots from low-paid officials and that doubtful rents should not be recovered under the special procedure provided in the Revenue Recovery Regulation. It is far from my purpose to impose any restriction in the way of the Government recovering the rents and dues of the endowments assumed by them in the same manner as arrears of public revenue.

Seconded by Mr. Nagam Aiya.

Carried.

Section 15.

Mr. Nagam Aiya.—I beg to propose that after the word "same" in line 12, the words "and arrange for their safe custody" be added. The officer deputed should, I think, have the power of making satisfactory arrangements for the safe custody of the jewels &c., examined by him in case he finds any reason to suspect mal-practices. The absence of this power might lead to serious consequences.

Seconded by Mr. Dharmaraja Iyer.

President.—I am afraid the wording of this amendment might be construed as authorising the officer to take possession of movable property. Such a procedure would look like partial assumption of the endowment in a summary way. The section is also defective in that it does not impose any obligation on the part of the trustees to furnish the officer with any information he may require or render him assistance in conducting the examination.

After some discussion, Mr. Nagam Aiya withdrew his amendment and the following amendments were considered and adopted :

Mr. Nagam Aiya.— I beg to propose that after the word "same" in line 12, the following be inserted as a sub-para :—

"The trustees and managers shall furnish the officer deputed with all the information he may call for and shall also assist him in the examination of accounts and movable property."

This amendment is intended to supply the defect in the section referred to by the President. The officer deputed by Government under this section should, for obvious reasons, have the power to call for the necessary information to enable him to conduct the examination ordered, and unless the obligation on the part of the trustees and managers to supply him with such information and render him assistance in conducting the examination is expressly laid down in the law itself, the object aimed at might be difficult of accomplishment.

Seconded by Mr. Rajaram Row.

Carried.

Mr. Rajaram Row.—I beg to propose that the following para be inserted after the amendment just passed :—

"Where the officer deputed under this section finds that any movables are likely to be removed or misappropriated, he shall make an immediate report to the Dewan, taking such steps for their temporary safe custody as may be necessary. On

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receipt of such report, the Dewan may, after hearing the parties concerned, pass such orders as he may think proper."

This is a modified form of the amendment proposed by my friend Mr. Nagam Aiya. In the light of the remarks made by the President, the wording has been so altered as to make it clear that nothing in the nature of assumption is contemplated. The deputation of an officer under this section to examine the jewels in a temple will often have to be done on petitions received, and it is possible that at the time of the examination, the officer may obtain reliable information tending to create grave suspicion as to the safety of the jewels unless some timely action is taken. As the section now stands, there is no such power. It will, of course, be the duty of the officer to report to Government the result of his examination and the suspicion he may have reason to entertain. But unless he has the power to make some temporary arrangement for the safe custody of the jewels, the very object of the examination and report to Government will be frustrated. I trust, therefore, the amendment proposed will commend itself to the Council.

Mr. Nagam Aiya.—I second the motion with much pleasure. It is, in fact, my own amendment in a modified form. It is far from my intention to permit the officer to do anything by way of summary assumption. The sole object is to prevent the misappropriation or removal of valuable jewels after an examination conducted under the authority of Government. It may appear awkward in the public eye if, immediately after an examination under the orders of Government takes place, the jewels should be made away with, owing to the want of power for the Government officer to take preventive measures in time. The amendment proposed will obviate such a result. I fully grant that the preventive measure taken by the officer need be only temporary, just what the urgency of the case may demand. When his report is received, it will be for the Government to decide whether any permanent arrangements should be made or an enquiry started under section 6. In any case, the temporary remedy is very necessary.

Carried.

Mr. Kuruvila.—I beg to propose that the following be substituted for the last sentence in the section:—

"Any trustee or manager who wilfully or contumaciously disobeys any order passed by the Dewan under this section shall be liable to a fine not exceeding rupees fifty for each act of disobedience and to dismissal if he is found guilty of three such acts of disobedience. The fines imposed under this section may be recovered as arrears of public revenue."

At the kind suggestion of the President, I have thus modified the wording of the amendment of which I had given notice. It is desirable to provide a mild form of punishment, in the first instance, for acts of disobedience on the part of trustees and managers. I need hardly say that the extreme penalty of dismissal would be a hardship if inflicted for a first offence. But if the offence is repeated thrice, there arises a natural presumption of pronounced defiance of constituted authority, which would fully justify the order of dismissal. The amendment, if carried, would give the trustees and managers the assurance that their position and status will not be disturbed, unless such a step is necessitated by their own conduct.

Seconded by Mr. Dharmaraja Iyer.

Carried.

Section 16.

Mr. Nagam Aiya.—I beg to propose that the words "with Our sanction" be inserted between "and" and "to" in line 7. This is a verbal amendment, intended to make the wording precise.

Seconded by Mr. Rajaram Row.

Carried.

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Section 17.

Mr. Nagam Aiya,—I beg to propose that in line 7, the words "or in pursuance of" be inserted between "under" and "the" and the words "conferred by this Regulation" substituted for "of Our Government" in line 8. It is necessary that the protection afforded by the section should be applicable not only to officers of Government and members of committees but also to managers and other servants of temples who may be appointed by the committees. The amendment proposed seeks to make this point clear.

Seconded by Mr. Dharmaraja Iyer.

Carried.

Section 18.

Mr. Kuruvila.—I beg to propose that the following be added at the end of the section:—

"and every written transaction entered into by tenants or creditors with such manager shall be taken as entered into with the endowment."

The object of this amendment is to explicitly provide for the protection of those who have innocent dealings with the corporations, just as the corporations are protected by the wording of the section. The prosperity of the trusts and their command over the money market depend upon the confidence with which the public deal with them, and I trust that the amendment proposed will work for the benefit of all concerned.

Seconded by Mr. Ferguson.

President.—I wish to point out that the amendment now proposed involves a principle distinct from the one contemplated by the section. The right to sue and be sued is one thing and the right to enter into contracts, quite another. The general principle of law is that an agent cannot make contracts binding on the principal, unless specially authorized to do so. The status of the Samudayoms of religious institutions mentioned in the section is, according to judicial decisions, that of agents, and the general law in regard to principal and agent must apply to them. The right to sue and be sued, which the section confers on the managers, is intended for practical convenience and is similar to the power conferred by the Civil Procedure Code on recognised agents. Section 18 of the Bill merely seeks to provide the facility, which the institutions are much in need of, for bringing and defending actions on contracts made by principals. The amendment proposed relates to an altogether different and all important right *viz.*, that of making contracts binding on the principals, on which it is neither advisable nor necessary to legislate.

Mr. Kuruvila.—In the light of the kind exposition of the law which the President has favoured us with, I do not press my amendment. But I beg respectfully to suggest, for the consideration of the Council, the desirability of so wording the section as to remove all misapprehensions in the minds of ignorant ryots about the legal status of managers in respect of the institutions under their management. My fear is that the status conferred on the managers by this section will be construed by ordinary tenants as empowering them to fully represent the institutions for all purposes, and under this impression, they may enter into transactions with them. It is highly desirable to make it clear that the right to sue and be sued conferred by the section does not extend to entering into contracts.

After some further discussion, Mr. Kuruvila withdrew his amendment and at the suggestion of the President, proposed the addition of the following words at the end of the section:

"whether or not such manager has the power of entering into contracts binding the endowment."

Seconded by Mr. Nagam Aiya.

Carried.

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Mr. Nagam Aiya.—I beg to propose that the word "Adhigari" be inserted after "Manushyom" in line 7 of this section. This amendment has been suggested in one of the petitions received, and I think it may be adopted.

Seconded by Mr. Padmanabha Menon.

Carried.

Section 19.

President.—We have now gone through all the amendments of which notice has been given. It strikes me that one more amendment might be adopted with advantage, in view to remove the misapprehensions in the minds of the Ooralers, of which we have heard so much since this Bill was introduced. In the opinion of the Honorable Mr. Wallis, the Advocate-General of Madras, which Mr. Krishnan Pandalay of Quilon has forwarded to us, it is stated that if the Ooralers have any rights of private property in the endowments under their management, such rights "cannot be said to be adequately protected and safe-guarded by the provisions of the Bill as amended by the Select Committee." Mr. Wallis, of course, takes care to add that he is "not in a position to express any opinion as to whether or not such private rights exist." From what we know of the origin and development of these institutions, it is extremely doubtful whether any rights of private property do or can exist in such endowments. As, however, the Ooralers seem to entertain apprehensions on the point, it is desirable to make it clear that no confiscation of private rights is at all contemplated by this Bill. I need hardly say that it is an enabling measure and the sole object is to prevent the spoliation or decay of religious endowments. The interference of Government is provided only where no other methods would secure this object, and every care has been taken to make that interference as slight and harmless as possible. Wherever private rights exist, they will, of course, be respected. There is nothing in the Bill which would authorise or justify any interference with those rights. This, I think, had better be explicitly stated, to remove the misapprehensions to which I have referred.

A discussion followed, after which Mr. Dharmaraja Iyer proposed, at the suggestion of the President, that the following words be added at the end of section 19:—

"or the right, if any, possessed or enjoyed by any person to share in the income of an endowment".

Seconded by Mr. Ferguson.

Carried.

After the above amendments were passed, the whole Bill was read in Council. As the expressions "Government" and "Sirkar" were both used in the Bill, some verbal amendments were found necessary and were adopted to secure uniformity and precision of language.

Mr. Nagam Aiya.—I beg to move that the Bill as now amended be read again on a future day of which notice shall be given.

The motion was put and agreed to.

As it was now 4-20 P. M., the consideration of the other Bills on the agenda *viz.*, the Weights and Measures Bill and the Bill for the Prevention of Cruelty to Animals, was postponed to the next meeting.

The Council adjourned at 4-20 P. M.

K. KRISHNASWAMY RAO,
President.

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